IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 293 OF 2007

Nanasaheb Tukaram Nikam, since
deceased through its LRs :
1. Sulochana Nanasaheb Nikam & Ors. .. Petitioners.

V/s.

Kachardas Shankarlal Karva .. Respondent.

Mr. Vijay Patil for the Petitioners.

Mr. K.K.Tated for the Respondent.

CORAM : S. A. BOBDE, J.

DATED : 04th SEPTEMBER, 2007.

P.C. :-

. This is a civil revision application by the tenant against the concurrent finding and decree of both the courts below to the effect that the tenant is liable for eviction on the ground that the respondent-landlord bonafide needs the suit premises for his own occupation. The petitioner-tenant is in occupation of one room, kitchen and hall on the first floor of the building. The respondent- landlord is in occupation of an identical room and kitchen on the ground floor of the same building.

2. Earlier, both i.e. the petitioner and the

respondent were the tenants in the said building. Apparently, the landlord purchased the property in the year 1998 and filed the suit for eviction within a period of two years. Though the parties are in occupation of an identical area, their needs vary greatly. The respondent-landlord is residing in the premises alongwith his three brothers, their wives and his aged parents who is suffering from various ailments. The landlord, therefore, claimed possession because there is a need of privacy and some peace in the residence. On the other hand, originally the premises were occupied by the tenant alongwith his wife and children. Apparently, the petitioner-tenant is survived only by the petitioners i.e.his widow and two children.

3. The findings are arrived at by the courts below on the basis of cogent evidence on the record. Mr. Patil, the learned counsel for the petitioner submits that the respondent’s need cannot be said to be bonafide because he has asserted it within two years of purchasing the premises though he was leaving in those premises without any difficulty just before the purchase. It is not possible to accept these arguments. Earlier the respondent - landlord was also a tenant in the same premises and obviously, there is precious little he could have done to acquire more accommodation

in the same premises. Admittedly, he has purchased the premises and it cannot be said that there is any lack of bonafides because he has sued for possession after two years of purchasing the premises.

4. As observed earlier, the findings are based on the cogent evidence and there is no error of jurisdictional or material irregularity in arriving at the said findings. Hence, no interference is called for in the revisional jurisdiction. The civil revision application is hereby dismissed.

5. At this stage, Mr.Patil, the learned counsel for the petitioner states that the petitioner has been in occupation of the premises since last about 20 years and he, therefore, prays for some time to resort to such remedies, as may be available in the law. He, therefore, prays for stay of the decree of possession. Considering the circumstances of the case, there shall be a stay to the decree of possession of the appellate court for a period of eight weeks from today. Hereinafter, the petitioner is directed not to create any third party rights in the premises.

6. Order accordingly.

(S.A.BOBDE,J.)

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